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PATENT
38-21(10640)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF)

Robert T. FRALEY et al.)

SERIAL NO: 08/146,621)

FILED: October 28, 1993)

TITLE: CHIMERIC GENES FOR)
TRANSFORMING PLANT)
CELLS USING VIRAL)
PROMOTERS)

GROUP ART UNIT: 184

EXAMINER: David T. Fox

January 26, 1994

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I hereby certify that this correspondence is being
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Commissioner of Patents and Trademarks,
Washington D.C. 20231 on January 26, 1994
Lawrence M. Lavin, Jr.
Registration No. 30,768

Date:

1/26/94

SUPPLEMENTAL INFORMATION DISCLOSURE
STATEMENT UNDER 37 C.F.R. § 1.97 and 1.98

Commissioner of Patents and Trademarks
Washington, D. C. 20231

Sir:

In compliance with the duty of disclosure under 37 C.F.R. § 1.56, it is respectfully requested that this Information Disclosure Statement be entered and the documents listed below and on attached Form PTO-1449 be considered by the Examiner and made of record. Copies of the listed references are enclosed for convenience of the Examiner.

1. Ursic et al., *Biochemical and Biophysical Research Communications*, 101, 3, pp. 1031-1037 (1981).

2. Beck et al., *Gene*, 19, pp. 327-336 (1982).

3. Herrera-Estrella et al., *EMBO*, **2**, 6, pp. 987-995 (1983)
4. WO 82/03087 (with translation attached)
5. Maliga et al., *Molec. Gen. Genet.*, **157**, pp. 291-296 (1977)
6. De Greve et al., *Nature*, **300**, 752-755 (1982)
7. Portetelle et al., *Annales De Gembloux*, **87**, 3, pp. 101-123 (1981)

Portetelle et al. is a review article. Applicants do not have a complete translation of this reference. Only one paragraph on page 114 of the article was relied upon by one of the opponents to the grant of the European counterpart to the present application. That paragraph roughly translates as follows:

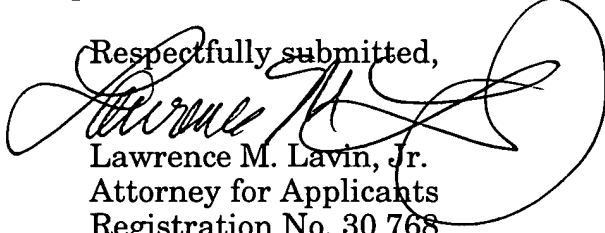
Many DNA viruses have been detected in plants. Many of them have been characterized, in particular CaMV. In view of the limited number of hosts and significant oncogenic effect this candidate vector as such has little interest. Nevertheless, one knows the sites of restriction of the viral genome and many fragments have been cloned in *E. coli*: The original viral promoters which are active in this bacteria have been isolated and characterized (McKnight and Maegher, 1981). One can hope in the near future of the construction of chimeric plasmids composed of a fragment of the bacteria plasmid and a virus promoter are suitable for expression of chimeric genes in plant cells.

In accordance with 37 C.F.R. §1.97(g) and (h), this Information Disclosure Statement is not to be construed as a representation that a search has been made or that the information cited is or is considered to be material to patentability as defined in § 1.56(b).

If any fee is required for proper consideration of this Information Disclosure Statement, the Commissioner is authorized to charge the appropriate fee to Deposit Account No. 13-4125. In the event an Extension of Time is required to render this paper timely filed, such an extension is requested from the Commissioner under 37

CFR 1.136(a). The Commissioner is authorized to charge the appropriate fee for said Extension of Time to the above-identified Deposit Account.

Respectfully submitted,



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